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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,051	10/25/2000	Kenneth R. Owens	4910.00011	4425

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Banner & Witcoff, Ltd.  
Suite 3000  
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EXAMINER

PHUNKULH, BOB A

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/696,051

Applicant(s)

OWENS ET AL.

Examiner

Bob A. Phunkulh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: please delete the typo "at" in line 11. Appropriate correction is required.

Claim 6 is objected to because of the following informalities: please insert the character ";" at the end of "path" in line 9. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Dantu et al. (US 6,532,088), hereinafter Dantu.

Regarding claim 1, Dantu discloses an multi-protocol label switching system (MPLS) having a working path over which data is carried from a source to a destination and further having a protection path over which data from said source to said destination can be carried, a method of initiating an MPLS protection path switch over from said working path to said protection path comprising the steps of:

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- detecting a failure on said working path at a first switching node of said working path (col. 4 lines 8-21);

- transmitting a failure notification message from said first switching node to at least a second, switching node of said working path (col. 4 lines 8-21);

- routing data from said working path to said protection path upon the receipt of said failure notification message at least one of: said second switching node and a third switching node of said working path (col. 4 lines 8-21).

Regarding claim 3, Dantu inherently discloses the failure notification message travels along a path through said MPLS system, extending between said destination and said source (see background of invention).

Regarding claim 4, Dantu discloses a multi-protocol label switching (MPLS) system protection switch, said MPLS switch comprised of

- a data input port into which MPLS data is received from a data source (input port of central network node 300);

- a first data output port from which MPLS data is sent to a second MPLS switching system comprising an MPLS working path (output port of the central network work node which sent the MPLS data to the either network node 312 or 320, see figure 3);

- a second data output port from which MPLS data is sent to a third MPLS switching system comprising an MPLS protection path (output port of the central

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network node which sent the MPLS data to either network node 312 or 320, see figure 3);

whereby data received at said data input port from said data source can be selectively routed from said second MPLS switching system to said third MPLS switching system (see col. 9 lines 8-33 and figure 3).

Regarding claim 5, Dantu discloses the MPLS switching system of claim 4 further comprising a control input port whereat protection path failure messages are received from at least one said second MPLS switching system and said third MPLS switching system.

Regarding claim 6, Dantu discloses a multi-protocol label switching (MPLS) system comprised of a first MPLS protection switch having a data input port into which MPLS data is received from a data source (the central network node, see figure 3);

a second MPLS switching system coupled to said first MPLS protection switch via a first data path carrying MPLS data, said first data path comprising an MPLS working path (either network node 312 or 320, see figure 3);

a third MPLS switching system coupled to said first MPLS protection switch via a second data path capable of carrying MPLS data, said second data path comprising an MPLS protection path (either network node 312 or 320, see figure 3);

an upstream reverse notification tree (RNT) data path extending at least between said second MPLS switching system to said MPLS protection switch carrying data by

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which a switchover from a working path to a protection path can be initiated (see col. 9 lines 8-33 and figure 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dantu in view of Omuro et al. (US 5,241,534), hereinafter Omuro.

Regarding claim 2, Dantu fails to explicitly disclose that re-routing data from said protection path to said working path upon the determination that said failure on said working path has been corrected.

Omuro, on the other hand, teaches re-routing (change back) data from said protection path to said working path upon the determination that said failure on said working path has been corrected (see abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to implement the teaching of Omuro in the system taught by Dantu in order to restore the original path upon the restoration the path – where the original path usually is cost efficient and shortest path.

### ***Conclusion***

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**Or:**

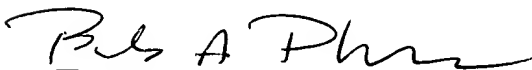
Hand-delivered responses should be brought to Crystal Park II, 2021

Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(703) 308-8251**. The examiner can normally be reached on Monday-Friday from 8:00 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Douglas W. Olms**, can be reach on **(703) 305-4703**. The fax phone number for this group is **(703) 872-9314**.

**Bob A. Phunkulh**



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February 23, 2004